

59-13-102. Definitions.

As used in this chapter:

(1) "Aviation fuel" means fuel that is sold at airports and used exclusively for the operation of aircraft.

(2) "Clean fuel" means:

(a) the following special fuels:

(i) propane;

(ii) compressed natural gas;

(iii) liquified natural gas; or

(iv) electricity; or

(b) any motor or special fuel that meets the clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, Title II.

(3) "Commission" means the State Tax Commission.

(4) (a) "Diesel fuel" means any liquid that is commonly or commercially known, offered for sale, or used as a fuel in diesel engines.

(b) "Diesel fuel" includes any combustible liquid, by whatever name the liquid may be known or sold, when the liquid is used in an internal combustion engine for the generation of power to operate a motor vehicle licensed to operate on the highway, except fuel that is subject to the tax imposed in Part 2, Motor Fuel, and Part 4, Aviation Fuel, of this chapter.

(5) "Distributor" means any person in this state who:

(a) imports or causes to be imported motor fuel for use, distribution, or sale, whether at retail or wholesale;

(b) produces, refines, manufactures, or compounds motor fuel in this state for use, distribution, or sale in this state;

(c) is engaged in the business of purchasing motor fuel for resale in wholesale quantities to retail dealers of motor fuel and who accounts for his own motor fuel tax liability; or

(d) for purposes of Part 4, Aviation Fuel, only, makes retail sales of aviation fuel to:

(i) federally certificated air carriers; and

(ii) other persons.

(6) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C. Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service regulations and that is considered destined for nontaxable off-highway use.

(7) "Exchange agreement" means an agreement between licensed suppliers where one is a position holder in a terminal who agrees to deliver taxable special fuel to the other supplier or the other supplier's customer at the loading rack of the terminal where the delivering supplier holds an inventory position.

(8) "Federally certificated air carrier" means a person who holds a certificate issued by the Federal Aviation Administration authorizing the person to conduct an all-cargo operation or scheduled operation, as defined in 14 C.F.R. Sec. 110.2.

(9) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is generally used in an engine or motor for the generation of power, including aviation fuel, clean fuel, diesel fuel, motor fuel, and special fuel.

(10) "Highway" means every way or place, of whatever nature, generally open to the use of the public for the purpose of vehicular travel notwithstanding that the way or place may be temporarily closed for the purpose of construction, maintenance, or repair.

(11) "Motor fuel" means fuel that is commonly or commercially known or sold as gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

(12) "Motor fuels received" means:

(a) motor fuels that have been loaded at the refinery or other place into tank cars, placed in any tank at the refinery from which any withdrawals are made directly into tank trucks, tank wagons, or other types of transportation equipment, containers, or facilities other than tank cars, or placed in any tank at the refinery from which any sales, uses, or deliveries not involving transportation are made directly; or

(b) motor fuels that have been imported by any person into the state from any other state or territory by tank car, tank truck, pipeline, or any other conveyance at the time when, and the place where, the interstate transportation of the motor fuel is completed within the state by the person who at the time of the delivery is the owner of the motor fuel.

(13) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle used, designed, or maintained for transportation of persons or property which:

(i) has a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds;

(ii) has three or more axles regardless of weight; or

(iii) is used in a combination of vehicles when the weight of the combination of vehicles exceeds 26,000 pounds gross vehicle weight.

(b) "Qualified motor vehicle" does not include a recreational vehicle not used in connection with any business activity.

(14) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay which consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel from a refinery or terminal into a motor vehicle, rail car, or vessel.

(15) "Removal," as used in Part 3, Special Fuel, means the physical transfer of diesel fuel from a production, manufacturing, terminal, or refinery facility and includes use of diesel fuel. Removal does not include:

(a) loss by evaporation or destruction; or

(b) transfers between refineries, racks, or terminals.

(16) (a) "Special fuel" means any fuel regardless of name or character that:

(i) is usable as fuel to operate or propel a motor vehicle upon the public highways of the state; and

(ii) is not taxed under the category of aviation or motor fuel.

(b) Special fuel includes:

(i) fuels that are not conveniently measurable on a gallonage basis; and

(ii) diesel fuel.

(17) "Supplier," as used in Part 3, Special Fuel, means a person who:

(a) imports or acquires immediately upon importation into this state diesel fuel from within or without a state, territory, or possession of the United States or the District of Columbia;

(b) produces, manufactures, refines, or blends diesel fuel in this state;

(c) otherwise acquires for distribution or sale in this state, diesel fuel with respect to which there has been no previous taxable sale or use; or

(d) is in a two party exchange where the receiving party is deemed to be the supplier.

(18) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage of diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel fuel is removed for distribution at a rack.

(19) "Two party exchange" means a transaction in which special fuel is transferred between licensed suppliers pursuant to an exchange agreement.

(20) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service regulations.

(21) "Use," as used in Part 3, Special Fuel, means the consumption of special fuel for the operation or propulsion of a motor vehicle upon the public highways of the state and includes the reception of special fuel into the fuel supply tank of a motor vehicle.

(22) "User," as used in Part 3, Special Fuel, means any person who uses special fuel within this state in an engine or motor for the generation of power to operate or propel a motor vehicle upon the public highways of the state.

(23) "Ute tribal member" means an enrolled member of the Ute tribe.

(24) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

(25) "Ute trust land" means the lands:

(a) of the Uintah and Ouray Reservation that are held in trust by the United States for the benefit of:

(i) the Ute tribe;

(ii) an individual; or

(iii) a group of individuals; or

(b) specified as trust land by agreement between the governor and the Ute tribe meeting the requirements of Subsections 59-13-201.5(3) and 59-13-301.5(3).

Amended by Chapter 369, 2012 General Session